

**COURTESY COPY JUDGE
HOLWELL'S CHAMBERS**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E*TRADE FINANCIAL CORPORATION and :
E*TRADE SECURITIES LLC, :
:

Plaintiffs, :
:

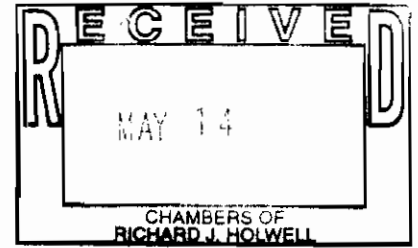
v. :
:

MARCUS J. HERNANDEZ, :
SEAN J. GAFFEY, and :
BANC OF AMERICA :
INVESTMENT SERVICES, INC. :
:

Defendants. :
-----X

No. 08 CV 2993 (RJH)

USDC SDNY
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STIPULATION OF DISCONTINUANCE WITH PREJUDICE

WHEREAS Plaintiffs E*TRADE Financial Corporation and E*TRADE Securities LLC (collectively "E*TRADE") and defendants Marcus J. Hernandez, Sean J. Gaffey, and Banc of America Investment Services, Inc. (collectively "Defendants") have fully settled their claims and counterclaims,

WHEREAS in the Order Granting Preliminary Injunction filed April 16, 2008 (the "Order"), the Court ordered that E*TRADE post security of \$100,000; and

WHEREAS on or about April 22, 2008, E*TRADE caused to be posted with the Clerk of the Court security in the form of a surety bond in the amount of \$100,000; and

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for the parties, that the above-captioned action is hereby voluntarily dismissed with prejudice and without costs to any party as against any other.

IT IS FURTHER STIPULATED AND AGREED by and between the undersigned attorneys for the parties, that the Order be vacated, that the Defendants are hereby released from the Order's terms and injunctions, that E*TRADE is hereby released from the Order's bond requirement, and E*TRADE's \$100,000 surety bond, together with any interest due thereupon, is to be refunded to E*TRADE in full at the earliest possible date.

IT IS FURTHER STIPULATED AND AGREED that the submissions of the parties dated May 5, 2008 are marked and filed as "sealed" documents.

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SO ORDERED.


United States District Judge Richard J. Holwell

Dated: 5/15/08

The clerk is requested to close this case.
